Judge: Hon. Marc L. Barreca
Chapter: Chapter 7

UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re: ADAM GROSSMAN, Debtor.	Case Number 10-19817 ORDER DISALLOWING CLAIM NUMBER 18 FILED BY TANAGER FUND, L.P. AND CLAIM NUMBER 19 FILED BY PTARMIGAN REAL ESTATE FUND, LLC.

THIS MATTER having come before the Honorable Marc L. Barreca on September 7, 2012 on the Trustee's Objection to Claim #18 filed by Tanager Fund, L.P. and Objection to Claim Number 19 filed by Ptarmigan Real Estate Fund, LLC ("Trustee's Objections"); the Court

Wood & Jones, P.S.
303 N. 67th Street
Seattle WA 98103-5209
(206) 623-4382

finding that notice of the Trustee's Objections was timely given to the debtor, each claimant and the Office of the U.S. Trustee, as evidenced by the Proof of Services filed with each objection and hence the Court finds that notice of the Trustee's Objections was adequate, timely, and in compliance with the Bankruptcy Code and Rules; the Court having reviewed the Trustee's Motion, and having reviewed the objections received to the Trustee's Objections, and having heard oral argument of the Trustee, but not the objecting party as he failed to appear for the hearing, and having reviewed the files in the above-referenced case and deeming itself fully informed in this matter, now, it is hereby

ORDERED, ADJUDGED, AND DECREED that the findings and conclusions of this Court were made on the record and a copy of the transcript thereof is attached hereto as Exhibit "1" pursuant to Federal Rule of Bankruptcy Procedure 7052 and Federal Rule of Civil Procedure 52. Based on those findings and conclusions claim #18 filed by Tanager Fund, LP and claim #19 filed by Ptarmigan Real Estate Fund, LLC are both DENIED.

///END OF ORDER///

Presented by:

Wood & Jones, P.S.

/s/ Denice E. Moewes
Denice Moewes, WSB#19464
Attorney for Trustee
Ron Brown

Wood & Jones, P.S.
303 N. 67th Street
Seattle WA 98103-5209
(206) 623-4382

EXHIBIT“1”

UNITED STATES BANKRUPTCY COURT

WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

In re:	)	
	)	
ADAM R. GROSSMAN,	)	No. 10-19817
	)	
Debtor.	)	
	)	

TRANSCRIPT OF THE DIGITALLY-RECORDED RULING

BY THE HONORABLE MARC L. BARRECA

SEPTEMBER 7, 2012

Reported by: Robyn Oleson Fiedler
CSR #1931

A P P E A R A N C E S

For the Trustee:

MS. DENICE E. MOEWES
Attorney at Law
303 North 67th Street
Seattle, WA 98103
Phone: 206-623-4382
dmoewes@aol.com

DIGITALLY RECORDED IN SEATTLE, WASHINGTON

SEPTEMBER 7, 2012

--ooOoo--

(Colloquy was heard, but not transcribed.)

THE COURT: All right. Thank you. Let me walk through this, because I want to have a fairly clear record of what I'm ruling on.

I think that for the same reasons that were discussed at argument on the settlement, it is hard to say exactly the -- certainly, I did not say that the superior court did not have jurisdiction to issue the orders it issued. It's more, what is the issue preclusion effect of those orders between anybody except husband and wife.

Here we have this further compounded problem of, I have one of the parties that is, in general, bound by those coming in now, sort of as best friend to these two entities, asserting claims on their behalf and then defending claims on their behalf, but not purporting to be the legally responsible person for those entities, but merely exercising the right of a debtor to file a claim on behalf of a creditor that hasn't otherwise filed a claim.

Whether that means he's estopped by the

superior court orders when he's acting in this capacity now or not, I'm not going to rule on at this juncture. Because I find the claims to be deficient as establishing any sort of prima facie claim for either party in general, and therefore I don't have to reach the issue of whether there's already been issue preclusion by the judgment of the superior court or not and whether it's issue preclusion as to these two entities when it's Mr. Grossman that's trying to defend the claims that he drafted.

Basically, and overall, the problem is they are so incomprehensible in their drafting that they don't state a cause of action or cognizable claim on behalf of those entities.

First let me recite what I believe is before me on this claim. There may be many other pleadings in the adversary proceeding or in the case in chief that have some discussion of the Tanninger Fund and the Ptarmigan Fund and the underlying real estate assets, held or not held, by those entities.

But what's been submitted in connection with the claims are Claim No. 18 of the Tanninger Fund LP -- the original claim and as amended because the attachments are different -- the objection to Claim No. 18, the declaration of Denise Moewes in support of the objection, the response to the objection, proof of claim No. 19 regarding the Ptarmigan Fund, the objection to proof of claim, the declaration of Denice Moewes in support of objection to Claim No. 19, response to the objection to proof of claim, and the declaration of Adam R. Grossman -- which he labeled Volume 1 of X at docket No. 417.

The most detailed documents are actually attached to your declaration, Ms. Moewes. But none of those add up to stating a cause of action and, in fact, belie a cause of action by either of these claimants. Mr. Grossman's not come up with anything coherent that this Court can even say I have a factual issue on. It doesn't rise to the level of meeting his prima facie evidence of validity of the claim under Bankruptcy Rule 3001.

The original proofs of claim didn't attach sufficient documentation or explain the basis for the claim sufficiently to be characterized as prima facie evidence of the validity and amount of the claim as required under 3001(f).

He had a further chance to amend that and clear up what the basis for the claim was once the two objections were filed. But rather than submit sufficient evidence to negate any of the assertions in the objection or otherwise, you know, present a prima facie claim, it just creates -- it just presents more incomprehensible recitation of issues about the SEC and the nature of the funds and fiduciary duties regarding the funds, but without in fact clarifying -- doing anything to counter the trustee's assertion and the superior court's finding that the community, and therefore the bankruptcy estate, held the assets of those funds, or to otherwise clarify that there's any cognizable cause of action against Mr. Grossman and his bankruptcy estate by those funds. And that's without making any determination of what the preclusive effect of the superior court order is.

And therefore, having failed to -- you know, besides the fact that he's defaulted by not appearing at hearing, he's not put forth, with any kind of clarity, sufficient facts or law to support and establish a prima facie claim for either claim 18 or 19. And I'll, therefore, deny both claims.

MS. MOEWES: And just mainly because I continue to receive demands daily or weekly from Mr. Grossman that I immediately cease and desist from using fraudulent accounting -- which is the decree of dissolution -- based on your ruling, I presume that this Court is not making any -- or does not believe the state court decree of dissolution is fraudulent at all and in fact is still in effect, an effective order.

THE COURT: Nothing has been presented to me to make me believe that there is -- that it is anything other than a final binding judgment of the superior court. And certainly, as I've stated many times in many proceedings, including this one, I'm not the court of appeals to the state court. If it's a validly entered order, it has the effect it has. The only discussion I've had before is it only binds parties to that order.

So it's going to be a case-by-case analysis of whether that final order affects and makes any -- has any preclusive effect in any specific matter that taker comes before me in this bankruptcy.

MS. MOEWES: Okay. Thank you, Your Honor.

THE COURT: All right. Thank you.

* * * * * * * * * *

CERTIFICATE

ROBYN OLESON FIEDLER certifies that:

The foregoing pages represent a complete transcript of the digitally-recorded proceedings.

These pages constitute the original or a copy of the original transcript of the proceedings to the best of my ability.

Signed and dated this 27th day of September, 2012.

by |s| Robyn Oleson Fiedler
ROBYN OLESON FIEDLER,
Certified Court Reporter.